DOCUMENT RESUME

ED 073 758 JC 730 065

AUTHOR Bender, Louis W.; And Others
TITLE First-Level Management: Legal Implications and Responsibilities for Selection and Retention of Faculty.
INSTITUTION Florida State Univ., Tallahassee. Dept. of Higher Education.
SPONS AGENCY Florida State Dept. of Education, Tallahassee. Div. of Community Junior Colleges.
PUB DATE Feb 73
NOTE 62p.

EDRS PRICE MF-$0.65 HC-$3.29
DESCRIPTORS *Administrator Guides; Administrator Role; Community Colleges; Contracts; Department Directors (School); *Faculty Evaluation; Inservice Education; *Legal Responsibility; Post Secondary Education; *Teacher Dismissal; Teacher Employment; *Teacher Selection

ABSTRACT

This collection of articles on the legal aspects of the selection and retention of faculty is intended for department or division chairmen, described as first-level management, in community colleges. The four articles are: (1) "The Changing Role of Division/Department Chairmen: Pivotal for the Community College" by Louis W. Bender; (2) "A Legal Framework for Faculty Selection, Evaluation, and Retention" by Harold H. Kastner; (3) "Legal Considerations in the Selection and Termination Stages of Employment: Challenge for Department/Division Chairmen" by Charles E. Miner, Jr.; and (4) "An In-Service Training Program for Division/Department Chairmen" by Robert L. Breuder. Notes on the authors are included. (KM)

ED 073758

U.S. DEPARTMENT OF HEALTH,
EDUCATION & WELFARE
OFFICE OF EDUCATION
THIS DOCUMENT HAS BEEN REPRODUCED EXACTLY AS RECEIVED FROM THE PERSON OR ORGANIZATION ORIGINATING IT. POINTS OF VIEW OR OPINIONS STATED DO NOT NECESSARILY REPRESENT OFFICIAL OFFICE OF EDUCATION POSITION OR POLICY

FIRST-LEVEL MANAGEMENT:

LEGAL IMPLICATIONS AND RESPONSIBILITIES FOR SELECTION AND RETENTION OF FACULTY

Department of Higher Education
The Florida State University
Tallahassee, Florida 32306

February, 1973

A publication of the FSU State and Regional Higher Education Center through a contract with the State of Florida, Department of Education on behalf of the Florida Division of Community Colleges

JC 730 065

UNIVERSITY OF CALIF.
LOS ANGELES

APR 13 1973

CLEARINGHOUSE FOR
JUNIOR COLLEGE
INFORMATION

PREFACE

This publication, while applicable to all echelons of the community college administrative team, is addressed specifically to those who serve in positions often described by the titles of department or division chairmen. Relatively little attention has been given to the increasing complexity and growing responsibilities placed upon these individuals who serve between members of the teaching faculty and upper echelon administrators. In spite of the expectation that these people will be primarily concerned with the thrust of the instructional program, both internal and external groups and individuals expect a high degree of managerial expertise. This is partly true as the role of courts of law has increased in adjudicating conflicts wherein the Civil Rights of an individual may be violated.

The possibility of facing a summons to appear in a court of law typically creates a sense of fear and trepidation. In reality, those who have performed professional responsibilities within a legally defensible framework should experience no such fear. The reason for the initial emotional impact often is rooted in the fact that institutions have been negligent in developing the appropriate internal criteria and procedures which would protect one making a professional judgment against liability. This document attempts to explain the nature and scope of the

legal framework which provides the initial basis for a defensible system.

Florida has taken an important step toward assuring department and division chairmen an opportunity to learn of the existing framework and to participate in shaping appropriate procedures and criteria for day-to-day decision making. There is increasing evidence that the division/department chairman role is becoming a new career level. These individuals are described as first line management. Much remains to be done to clarify the nature and scope of this new career level as well as the requirements of personal qualities, professional training, and background necessary in future years.

TABLE OF CONTENTS

Page

PART I 1

THE CHANGING ROLE OF DIVISION/DEPARTMENT CHAIRMEN: PIVOTAL FOR THE COMMUNITY COLLEGE

By: Louis W. Bender

PART II 13

A LEGAL FRAMEWORK FOR FACULTY SELECTION, EVALUATION, AND RETENTION

By: Harold H. Kastner

PART III 24

LEGAL CONSIDERATIONS IN THE SELECTION AND TERMINATION STAGES OF EMPLOYMENT: CHALLENGE FOR DEPARTMENT/DIVISION CHAIRMEN

By: Charles E. Miner, Jr.

PART IV 44

AN IN-SERVICE TRAINING PROGRAM FOR DIVISION/DEPARTMENT CHAIRMEN

By: Robert L. Breuder

Notes on the Authors 57

PART I

THE CHANGING ROLE OF DEPARTMENT/DIVISION CHAIRMEN: PIVOTAL FOR THE COMMUNITY COLLEGE

Louis W. Bender
Professor of Higher Education
The Florida State University

THE CHANGING ROLE OF DEPARTMENT/DIVISION CHAIRMEN: PIVOTAL FOR THE COMMUNITY COLLEGE*

The most neglected position of responsibility in the community college, as well as other institutions of higher education, is that typically described as department or division chairman.[1] This position represents the first line of decision making characterized by professional judgments on the nature and quality of teaching of individual faculty members. Recent developments, including action of the courts and the advent of collective bargaining, have made the role of department chairman pivotal in the institution. It is our purpose to focus serious attention upon the complexities of the position and to promote state-wide efforts to assist those holding the position.

Recently the literature of higher education has reflected a growing acceptance of management concepts for higher education administration. This is due in part to the fact that higher

---

*Major portions of this paper are based on an address by Dr. Russell Kropp, Associate Dean of Graduate Education and Research, College of Education, The Florida State University, presented at the first workshop for department/division chairmen held at Clearwater, Florida, April 20-21, 1972, and included in subsequent presentations at the eight regional workshops held throughout Florida.

[1]The term department chairman will be used throughout the paper whether an institution uses titles such as department chairman or head, division chairman or supervisor, or some other title.

education is in a most traumatic period of adjustment caused by a sudden shift from boom growth to minimal growth (even stabilization or reduction in many institutions) with a concomitant public pressure for greater accountability. This accountability pressure has resulted in a strong demand for relevant and effective educational programs which are at the heart of the daily responsibilities of the department chairman. Some describe this position as a mid-management position, implying the echelon is somewhere in between "top" management and the faculty. It is the thesis of this paper, however, that the department chairman operates at first-level of management, on the day-to-day firing line of decision making.

The position, perhaps more than any other within the institution, has experienced a dramatic change in scope and nature of responsibilities and obligations. It has evolved from one of informal leader/colleagueship toward one of formal, skillful management.

The historical role and traditions from which the department chairman's position evolved create a special problem of conflicting circumstances within the contemporary context. In the early mold, the department chairman was broadly accepted as the ceremonial head of a familial organization. Usually elected by colleagues, he assumed the role of honored spokesman and father-image for the department. As a result, it was characteristic for this person to operate on a principle of private consultation and individual negotiation which can no longer be done within the eyes of the law.

This condition shall be covered in greater detail later in the paper.

Without giving all the reasons for the rapid shift from the relatively simple requirements of yesterday to the complex demands made upon the department chairman today, let us briefly examine six examples of the heavier burden placed upon this individual.

More time consuming: The department chairman's work has grown more time consuming as institutions have grown in size and complexity. Bodies of policies and procedures are continuously being enlarged and elaborated. In these circumstances, the need for communication and the time needed for and the difficulty of communications increase inexorably. Administrative peers come and go, so additional time must be spent making new acquaintances and alliances because they are at the heart of the informal power system. The department chairman is confronted boldly with the principle that the bigger the system, the greater the effort needed to move it.

In short, more of the department chairman's time must be devoted to learning the evolving system so that he might operate in it effectively; as the complexity of the system increases, the department chairman must exert proportionately more effort to exercise a unit of influence on it or to wring a unit of accomplishment from it. It is, therefore, necessary to understand the nature of formal and informal power structures in an organization.

More formalistic: The department chairman's work has grown more formalistic as interactions between department chairman and faculty member have become more formal. The interchanges reveal prescribed behaviors on the part of each that are more characteristic of their formal positions than of their individual personalities. These stylistic relationships are mainly caused by intrusion of "the law" into departmental affairs. On one hand, the introjection of law is due to heightened concern about the protection of Civil Rights of faculty members. On the other hand, it is due to the transformation of the department chairman--faculty member relationship to one of employer--employee although each is likely to disclaim the relationship and the status accorded in it.

Therefore, departments have partly shed their academic and comradely cloak in favor of a legal one which, because of its unfamiliarity, leaves department chairmen insecure and unsure. Their zest and buoyancy are obscured or eliminated by highly patterned behavior that conforms to the letter of the law while modifying an academic relationship that in prior years suggested that a department was an extended family system. Now chairmen hesitate to encourage a floundering junior faculty member by saying, "Don't worry; be of good cheer; it will go better next year" for fear that their words would be construed as an invitation to employment and an implied contract.

More responsible: The department chairmen's work has grown more responsible, including the stewardship of their department.

The public, particularly legislators, demands prudence and accountability in the use of public funds. This demand cannot be satisfied by having department chairmen swear they will not breach the faith of the public. It can apparently be satisfied only by compiling extensive records and submitting detailed reports which ostensibly demonstrate that resources were expended wisely in pursuit of antecedently determined and sanctioned goals. The demand for accountability is multiplying paperwork which soon will occupy nearly all time and energy.

This requirement of demonstrated responsibility gives rise to program planning and budgeting systems; annual statements of professional goals by each faculty member; systematic evaluation of goal achievement; quarterly, semi-annual, and annual reports; external audits, etc. It is ironic, but often written reports are of virtually equal value in absolving department chairmen. One report might be cogent and the other preposterous, but the quality seems to be of no consequence if it is attractively written and filed punctually.

More taxing: The department chairmen's work has grown much more physically and psychologically taxing. The psychologically taxing aspect of the charge can be ascribed largely to the ambiguity surrounding the position one occupies. The chairmen are often anxious, confused, divided, and torn because they are uncertain of identity and allegiance.

What authority do department chairmen have in the final decision? If any, is it held because it was delegated as part of their positions, or was authority bestowed by the faculty due to some academic superiority which they acknowledge? This question is not fanciful! Power is often depleted and one should know where to go to have it replenished.

Department chairmen are often puzzled by conflicting roles: are their roles to represent the faculty to the administration, or do they represent the administration to the faculty? If they must do both, what psychological security will come to people who always stand in the middle, people who are neither fish nor fowl, who are neither one of them or one of us?

More public: Department chairmen's work has grown more public as they function more and more in the eye of the public. They are barraged by counsel, sought and unsought, welcome and unwelcome. Actions quickly become public knowledge and are subjected to intensive scrutiny to determine possible motive, abridgement of rights, egomania, unilaterality, departure from procedure, foreshadowing of administrative conspiracies, and, of course, just plain stupidity.

Department chairmen's administrative offices have been made fishbowls. Department chairmen sink or swim in view of all. They are poorly prepared to operate in transparency because their heritages are ones of private negotiations with each individual in

turn. Department chairmen had believed the confidence of the faculty had been vested in them and presumed individual differences among faculty members required personalized and private treatment. But that time has passed and those behaviors and assumptions are in disrepute. Now it is government, and governance too, in the sunshine.

More perplexing: The department chairman's work has grown more perplexing. As a department chairman, one might ponder: is my primary role that of management or of leadership, or of neither? If management, then how do I explain my lack of training in management and administration? Might it be so simple that I will be able to grasp the fundamental principles during an unsupervised apprenticeship? If leadership, whom do I lead and what do I lead them toward or from? Can faculty who regard themselves as being independent and autonomous be saddled with institutional goals, or do I note their goals and advocate them to my superiors as worthy of installation as institutional goals?

As a department chairman, how do I reconcile the seeming conflict between receiving directives from on high for implementation and attempting to govern through participation of all members at the departmental level? As an administrator, can I act democratically when all sovereign power is vested in the chief executive officer?

As a department chairman, why is it that the most clearly defined and urgent of my tasks are ones for which no one has provided me tools? I must identify and reward good teaching and am then armed with invalid instruments with which to make the assessment. I must allocate resources to optimize achievement of institutional goals but no one has yet told me the economic value of a unit of student achievement.

As a department chairman, how can I change the format of my department's instructional program which currently reflects the kind of training to which all my faculty were subjected and which they therefore regard as natural? We have an instructional format which is fixed-time and variable-achievement; it operates like a prison: one must serve his time before he is released. Why should it not be a variable-time and fixed-achievement format--one in which a student must demonstrate competency before he can move on? How can I get my faculty to recognize the educational advantage of the latter? Do I want my faculty to be scholars, first, and then teachers, or vice-versa? Does what I want coincide with what my faculty want?

THE FUTURE

So often the apparent is not seen! The fact is we have been discussing a new career--one which is totally different from its earlier model. As we examine new understandings of social organizations, concepts of interhuman relationships and theories of

motivation, we see a new, challenging, and hopefully satisfying field of endeavor. While it is true little has been done to assist department chairmen in preparing for or understanding the complexities of this new professional level, we are at the beginning of a period when Boards of Trustees and Presidents will themselves understand the significance of the role of the department chairman and make appropriate provision to support its development.

The President increasingly finds decisions are not made at his level--his role is changing too--by external pressures and influences as well as by internal pressures and influences. In my judgment, we shall see a keener appreciation of the fact that the focal point for real decisions of importance in the direction of the college in serving its students and community will be at the department level.

Much has been written and said about the relevance of management theory and practice to higher education. Only a few years ago educators rejected even the use of the term "management" for an educational institution because of a connotation that resources, whether human or natural, were manipulated to achieve a desired end--production and profit. Today, we find respectability--perhaps even glamour--associated with the term "management" in educational administration. Recent literature abounds with discussions of "management by objectives," and faculty are now sometimes described as "managers of the learning process." Department chairmen have become identified as part of "mid-management" although in business

and industry that title has already been replaced by the description of first level managers in recognition of the pivotal position held in the organization. One of the first issues identified when an institution begins professional negotiations (educational jargon for collective bargaining) is the determination of the department chairman as part of faculty or of administration. Strikes have already been called on this issue along due to the pivotal role of this first level management.

By mutual effort of those who find satisfaction in pioneering a new career field, the dissatisfactions of the evolving role can be translated into good news. The need exists; the understanding of the phenomenon is growing; and the priority and support requirements can be realized. The Florida Community Colleges can, over the next few years, give national leadership in tackling the problems associated with the various responsibilities and tasks placed upon the department chairman.

Higher education and community college education are in a stage of fundamental transition. The past forms are obviously unworkable and untenable and the new forms have not yet fully emerged. The current scene is one of flux, conflicts, trial solutions, and swift evolution. Institutional forms and organizational structures are changing, goals and values are changing, roles are changing, and governance is changing. Constancy and certainty are nearly impossible to find in such a welter of movement.

So, what should an administrator, specifically a department chairman, do? One could do worse than the following:

First: regard administration as an honorable, full-time, socially necessary career that is essentially different from teaching.

Second: hold as one's first obligation the personal development of students; the second obligation should be the development of one's faculty.

Third: recognize that a department has no claim to existence apart from its role in achieving institutional goals.

Fourth: lead the department on the basis of sound educational theory and as an educational institution; recognize the department is not a manufacturing plant, an army, a social action agency, a court of law, a youth hostel, or a sanctuary for intellectuals who wish to be dissociated from society.

Fifth: resist all intruding forces that would cause one to deviate from developing students and faculty and serving the institution.

Finally: hang loose; tolerate some ambiguity; realize that all men are of good will whether they agree with one another or not; and recognize that conduct as an educational administrator will not get one into heaven or keep one out of hell.

PART II

A LEGAL FRAMEWORK FOR FACULTY SELECTION, EVALUATION, AND RETENTION

Harold H. Kastner
Assistant Director
Division of Community Colleges
Florida Department of Education

A LEGAL FRAMEWORK FOR FACULTY SELECTION, EVALUATION, AND RETENTION

It is essential that a legal framework for selection, evaluation, and retention be established that will support the formal relationship expected between an institution and its faculty. This relationship must be identified specifically enough for those who are involved in the process to maintain a mutual understanding of expected behavior. The division chairman or department head is the first-line administrator of the college who is responsible for implementation and interpretation of the laws, regulations and policies governing the instructional operation of the institution. Ostensibly, the division chairman cannot legally expect behavior of a faculty member if that behavior which is expected is not known by the faculty member concerned. Specifics such as working conditions, responsibilites, benefits, and entitlements must be included in this legal framework. Furthermore, this information should be formally publicized and readily available for all concerned.

The authority for this relationship generally emanates from a variety of sources and is legally summarized in a contractual agreement. Once this framework has been formalized, it provides a vehicle for identifying the inter-relationship of the "full-disclosure and expectancy" concept identified in the selection process and the

criteria upon which the evaluation process is based. This subsequently provides direction in taking administrative action in the areas of promotion, in-service training, retention or dismissal of faculty members.

The following discussion identifies common characteristics relating to legal authority, contractual provisions, and the governing structure for interpreting the legal framework.

LEGAL AUTHORITY

The sources of the authority which establish this legal framework range from Constitutional provisions to local community college directives. For the publicly supported community/junior college, this usually includes a broad authorization by the state Constitution and specific provisions in state statutes, state-level regulations, local governing board policies, and administrative memoranda. A brief review of these sources should help to clarify the nature of this authority. For convenience, the following discussion separates these into statutes, regulations, policies, and administrative directives.

Statutes: State legislative action is authorized by Constitutional provisions and usually falls into two categories. One category is enabling and permissive. Generally it defines the mission of the institution and establishes the corporate authority of the local governing board. Permissive authority may be delegated in

operational areas which can be carried out either by the state education agency or the local governing board.

The second category is one which identifies specific wishes of the legislature. For example, there may be a prescription of credentials required for licensing teaching faculty; a formula and method of determining and allocating state funds; and specific reference to personnel matters that must be acted upon by either the state education agency or the local board. Thus, statutes provide a specific legal basis for establishing the public community/junior college and the general framework for its operational control.

Regulations: A state-level educational agency is usually established with responsibility for implementing and administering the provisions of statutory directives. The structure of this agency varies considerably by state and it is difficult to make generalizations about it which are applicable throughout the United States. There may be a single state board of education or department of education which passes regulations and creates an administrative structure for implementation. In some states both entities have been established. In Florida, for example, there is a state board of education that adopts regulations and a state department of education which is responsible for establishing administrative guidelines for implementing some of these regulations. In some states the state board establishes policies and regulations. For

convenience, these are grouped together in a general reference as "regulations."

As was the case for statutes, there are two general categories of regulations ranging from specific to permissive provisions. Again drawing upon the Florida example, the State Board of Education Regulations specifically identify minimum sets of criteria that must be included when considering the dismissal or suspension of a faculty member and choosing between or among faculty members holding tenure when reduction of staff is necessary. These same regulations authorize the local governing board to establish policies governing leave provisions for its personnel. Regardless of the state educational agency structure, when these regulations and guidelines are authorized by statute, they have the full effect and force of law.

Policies: The local community college board has the corporate authority and responsibility for implementing laws and regulations governing its operation. Action of the board appears in its official minutes and may be published in such forms as policy handbooks, employee and faculty handbooks, catalogs, procedures and job descriptions. Although policies may range from broad authorizations to specific designations, it is important to note that this is the last level of authority which establishes the operational framework for administering the college. The board is responsible for establishing a specific framework for identifying

such items as conditions of employment and work responsibilities for college-wide use and at the same time provide a flexible vehicle for appropriate administrative refinement at the discipline level where the faculty member is assigned. These should include the performance expectations associated with the responsibility and the evaluative criteria to be used.

Administrative Directives: The final level of authority to be mentioned here resides with the administrators of the institution. Administrative memoranda, directives, and procedures commensurate with laws, regulations, and policies have the full effect of law and are the implementing vehicles for carrying out the mission of the institution. That which has not been clarified at other levels of authority for maintaining a mutual understanding of expected behavior must be finalized at this level. Although this responsibility varies with administrative structures, this clarification becomes a major assignment for the division chairman/department head.

The division chairman/department head has the final responsibility of identifying work expectancies commensurate with the teaching assignment and the discipline involved. Faculty expectations associated with instruction in chemistry, for example, should be differentiated from those associated with music instruction. Provisions should also include non-classroom performance in such areas as curriculum development, committee assignments, and meeting report deadlines.

Summary

The rationale for the aforementioned legal framework is to provide a clearly defined basis for the performance expectations of the college faculty. A factor which cannot be over-emphasized is that any item deemed essential enough to accept or reject an individual's performance as part of the institution's requirements is important enough to be formalized in the legal structure. If a matter is not sufficiently important to warrant this identification, it should not be utilized in the evaluation process or any part of its consequential action. The framework established must maintain consistency at all levels of the formal hierarchy. Specifics identified in statute and regulation should also be reflected in policies and administrative directives.

Although obvious examples have been given to the contrary in the above discussion, a rule generally followed in this legal hierarchy is that the closer the control approaches the operational implementation, the more specific the framework becomes.

CONTRACTUAL PROVISIONS

The contract between the institution and its employee documents and binds the formal relationship of the two parties. It must have sufficient reference to the legal framework identified in the first section of this paper to provide the basic characteristics of the contractual relationship and at the same time not

become a document so voluminous that it duplicates all the administrative directives, policies, regulations, and statutes governing the contract. The contracts used should be specialized to the extent that different employment categories such as part-time, supplementary, annual and tenure status are recognized. Distinctions between administrative and instructional responsibilities should also be identified.

Standard contracts usually include references to:

1. performance of services required,
2. location of assignment,
3. authorized absences,
4. provisions for suspension and dismissal,
5. evidence of good health,
6. provisions for termination,
7. salary provisions,
8. inclusive dates of services to be performed,
9. specific credentials required such as state certificates or degrees, and
10. laws, regulations and policies affecting the contractual relationship.

Item 10 provides the major vehicle for avoiding the voluminous duplication described above. It can also establish a framework for changes which need to be made either during a given year, or from year to year for those employees on tenure status who do not receive

a new contract annually. Suggested language for this provision is, "This contract shall at all times be subject to any and all laws, state board of education regulations, board policies and regulations now existing or hereafter enacted or promulgated."

It is desirable that individuals occupying positions which may be working towards tenure as identified by regulations and policies be so identified in the contract. Such a statement could instead be included in the letter of transmittal provided at the time of hiring along with any other special understandings that may not be specified in the contract itself, but are relevant to the assignments of the individual.

GOVERNING STRUCTURE FOR INTERPRETATIONS

As might be expected with the use of so much formal terminology, the references identified in the legal structure often lead to questions concerning operational intent. A formal structure has been developed to provide interpretations and clarifications of this language with governing authority to accompany it. For convenience of discussion, this structure is divided into court and non-court procedures.

Court Action: Court action may be sought, by either the employee or any group representing the various levels identified in the formal structure of the first section of this paper, to clarify the intent and interpretation of the legal framework. The level of court action varies with court structure of a state and the nature

and governing level at which a question is raised. Therefore, these decisions may come from courts ranging from a local small claims jurisdiction to that of the Supreme Court. Regardless of the level of court action, those decisions interpreting the legal structure are binding upon those concerned.

Non-Court Interpretations: Short of court action there are several levels of formal interpretations that are available to those involved in this legal structure which are legally binding until challenged either by court action or a higher level of authority in the "opinion" hierarchy. This interpretational hierarchy parallels that of the levels of legal authority identified in the first section. These interpretations may be initiated upon request or upon administrative determination by an appropriate official or authorized officer who believes apparent confusion warrants action. These levels are:

1. State Attorney General Opinions,
2. State Educational Agency Interpretations (depending upon state structure, this may include State Board of Education General Counsel Opinions and departmental administrative determinations),
3. Local College Board Opinions
4. Findings of Authorized Administrative Hearings, and
5. College Administrative Interpretations.

Since this structure is legally binding upon those involved in the formal relationship between the institution and the employee, both parties must keep informed of developments in this area. Both the faculty member and the division chairman, for example, must be conversant enough with these interpretations to maintain a working understanding of mutual expectations.

CONCLUSION

This part of the discussion has concentrated upon the legal framework which governs the relationship between the first-line, college administrator and his or her faculty member. Once the legal structure, contractual obligations, and governing interpretations have been incorporated meaningfully into the selection, development, evaluation, and retention or non-retention process which relates to the mission of the community/junior college, the resulting relationship established between division chairmen/department heads and the faculty members under their supervision is professionally objective and desirable. It is also legally defensible. When used in this context, it provides a legal framework for professionalism.

PART III

LEGAL CONSIDERATIONS IN THE SELECTION AND TERMINATION STAGES OF EMPLOYMENT: CHALLENGE FOR DEPARTMENT/DIVISION CHAIRMEN

Charles E. Miner, Jr.
General Counsel
State Board of Education of Florida

LEGAL CONSIDERATIONS IN THE SELECTION AND TERMINATION STAGES OF EMPLOYMENT: CHALLENGE FOR DEPARTMENT/DIVISION CHAIRMEN*

Two crucial points for professional judgments over the destiny of a faculty member upon which the courts have focused attention are the selection stage and the termination stage of employment. Since department or division chairmen typically are involved from the initiation through the final recommendation phases of each of these stages, they are apt to be among the first to answer to the courts if questions of Civil Rights are raised. As first line decision-makers, department/division chairmen can prevent intrusion of judicial review by understanding the nature of the selection and termination stages.

This paper treats each of these stages in the spirit of preventive law. While the structure and organization of community colleges differ among the various states, adherence to the procedures outlined will go a long way in fostering a positive legal and professional climate.

---

*The author is appreciative of the contributions made by members of the Florida Division of Community Colleges and university and college officials in Florida in the preparation of this paper.

THE SELECTION PROCESS

The period of time from initial contact with a prospective faculty appointee to his or her appointment to the faculty is, for both the institution and the individual, the most critical phase of the employment cycle.

Although a strong faculty is the bedrock upon which viable educational institutions are built, faculty selection practices in many community colleges have in the times past been characterized by varying degrees of informality. This is not to conclude that informality is undesirable per se any more than we could assert that formalization in the selection process necessarily results in good faculty performance. Both generalizations would fail to take into account the many variables which affect any employment relationship, not the least of which is human imperfection.

In the words of a well-known contemporary folk ballad, "the times they are a-changing." Students are seeking relevance as administrators search for order. The public demands performance, not promise, as faculties ask role definition and professional protection. Add to these forces for change the state and federal judiciary, heretofore relative silent partners in our educational scheme of things, and the need to re-examine and redefine past practices and attitudes is mandated, if not by law, at least by reason.

Underlying the suggested guidelines for faculty selection which follow is one basic premise. We would strongly assert that both the prospective faculty appointee and the institution have every right to expect that each will make full and complete disclosure of any and all facts which might bear on the applicant's decision to accept or decline appointment to the faculty and the institution's decision to offer employment in the first instance. Lack of candor at the outset has soured many an employment relationship. Calculated initial concealment of matters pertinent to the proposed educational partnership amounts to willful deception and is indefensible. Unintentional nondisclosure, while more often than not the result of oversight, may be just as damaging to the proposed relationship. The matter of candor, it should be stressed, is a two-way street. The institution's failure to make clear all matters pertinent to employment probably is far more common than a comparable omission by the prospective faculty member. Consequently, a determined mutual effort should be made to inform fully the prospective appointee what will be expected of him and what he can expect from the institution. In such an atmosphere thus created, misunderstanding, disappointment, suspicion, mistrust, and hostility will be hard pressed to thrive.

The matter of faculty selection may be viewed as a five-step process, characterized by both formality and informality. While it is recognized that on many campuses faculty recruitment is a team effort involving faculty, administrators and even board members on occasion, we will concentrate on the role of the department chairman or his counterpart in this most important process. What he does or does not do or what he says or does not say can in large measure determine for better or worse the educational course of his department and even his institution. By his words and deeds he can inspire a high standard of professional performance from his faculty or he may consign a faculty member to professional limbo, rightly or wrongly. The achievement of academic excellence to which every department of every institution aspires is dependent upon the ability he brings to, and the dedication with which he approaches his appointed duties.

Having stressed in general terms the importance of the department/division chairman in the higher education hierarchy, it is appropriate now to discuss the chairman's step-by-step role in terms of the faculty selection process.

Step I--INITIAL CONTACT

The first critical step in the selection process is the initial contact with the candidate, no matter how informal. It is understood that the chairman and the faculty have the affirmative obligation to search for the best qualified candidates

available. Care should be taken, however, that any prospective candidate does not misunderstand the nature of the contact. It should be made clear at this point to one solicited in this fashion that no job is being offered but that interested persons are being encouraged to submit applications and background information.

Step II--SCREENING OF APPLICANTS

After a complete search, the department will analyze the applications received to identify those qualified to fill the available position.

The list of applicants having been narrowed, preferential priorities will be assigned to these candidates. The department chairman should speak personally with and seek a recommendation from the person or persons under whose direction the experienced applicants last worked or the major professor under whose tutelage the inexperienced candidate earned his degree. If favorable responses are received and if nothing is revealed that would cause a shifting of preferential priorities previously assigned, it is now appropriate to move on to the first formal step in the selection process.

Step III--NEGOTIATION PROCESS

This stage might metaphorically be termed the time for fishing or bait-cutting in the faculty selection process. What is done or said at this stage most surely will have a profound

influence on the direction the employer-employee relationship will take in the future. This is the time for frankness and candor and, most importantly, for reducing representations and expectations to writing.

Record development is not intended to serve as an axe in unkind seasons when the head of the unfortunate probationary faculty member is on the chopping block. Rather, it is commended as the right and professional alternative to laxity and informality. Memories dim with the passage of time and today's institutional decision makers may move on tomorrow as opportunities for career advancement surface elsewhere. But the written record will remain and will serve as the basis in all seasons for promotion, salary increments and, in due course, continuing contract status.

Having narrowed the field of contenders to those thought to be best suited to fill the available position, it is time to make the first formal contact with the individual candidates by use of a letter of interest over the signature of the department chairman or other responsible college official. A copy of this letter, the application and background data and a simple check list constitute the first entries into the candidate's permanent file at this point in time. The letter of interest is again not an offer to employ but simply an invitation to the candidate to engage in dialogue which may or may not lead to

employment. This should be clearly stated to avoid misunderstanding.

The letter of interest should state in general terms the goals and aims of the particular institution and contain detailed information peculiar to the department involved or to the available position, i. e., teaching and related duties, salary, special conditions of employment, release time, possible summer employment, etc. It should contain an offer to answer any questions he or she might have and a request for a written response.

This letter of interest should be accompanied by a faculty handbook, catalogue, and any other documents containing desired information, and should direct the attention of the prospective faculty member to at least the following matters:

A. The Structure of Community College Education in the State

The candidate should be advised in general terms of the community college hierarchy within the state with particular emphasis on state regulations and policies at the local as well as state level.

B. Chances for Continued Employment

This is by far the most important topic to be covered with the candidate both in the printed material supplied to him and in any personal interview. Great

care should be taken not to nurture false expectations that the candidate, once employed, is entitled to continuing employment as a matter of right. We believe it fair to say that the institution and the prospective faculty member hope for a lasting relationship but that short of continuing contract status, continued employment from year to year will be on a series of annual contracts, the offering of which is wholly within the discretion of the Board of Trustees. It should be understood by all parties that the execution of a contract of employment does not create an expectancy of re-employment beyond the term of the contract. The candidate should be apprised of evaluation procedures in use at the institution and that in-service counseling is always available to help him over the rough spots he encounters in the performance of his duties.

C. Continuing Contract or Tenure Status

All regulations issued by the state relating to the entitlement to and attainment and retention of continuing contract or tenure status should be included in the information furnished the candidate.

D. Opportunities for Career Advancement and Improvement

Also important to the career-minded faculty candidate is the opportunity for professional advancement.

A candid appraisal of the chances of promotion obtaining within the department or institution is extremely important to the smooth working relationship desired by both the candidate and the institution. Of equal concern to the candidate are opportunities for professional improvement through in-service conferences, seminars, graduate courses, and the like. The method by which salary increments are determined might also be touched upon at this point.

E. Academic Freedom

The institution's policy with regard to academic freedom should be included in the material supplied to the candidate.

F. Grievance Procedures

The institution's available grievance and hearing procedures should be included in the material supplied to the candidate.

G. Standardized Form of Contract in Use

A form copy of the standardized contract in use in colleges should be included in the packet of material sent to the candidate.

H. Budgetary Facts of Educational Life

The prospective faculty appointee should be made acquainted with budgetary realities that govern institutional activities. Again, care should be taken to

separate what the institution hopes to do in such areas as program and facility expansion, salary increases and the like and what the institution is actually capable of doing in this regard. Objectives are one thing and present financial ability to move toward these objectives is quite another.

I. Notice

All state regulations and policies of local boards, if any, regarding notice as notice relates to reappointment, non-retention and attainment of continuing contract status should be included in the material supplied to the candidate.

J. Fringe Benefits

The availability of fringe benefits to institutional employees should be spelled out in the material made available to the candidate.

K. Patent and Copyright Policy.

State and/or local policies regarding patents and copyrights should be furnished the prospective candidate.

During the first formal steps described above, care should be taken to insure that the candidate's file reflects all communications between the individual and the institution. Contacts

other than in writing should be reduced to writing and made a part of the permanent record. Again, we are seeking to avoid the "you said this; I did not" syndrome upon which most employment misunderstandings are grounded.

Step IV--PERSONAL INTERVIEW

If the applicant has no questions about the position or the material sent him and if he has expressed an interest in the position, it would be appropriate to invite him to the campus for a personal interview.

This phase of the faculty selection process might be viewed as the final countdown to employment. Now is the time to review and confirm, to discover and correct, to the end that future stress on the ties that bind the proposed educational partnership will be minimized.

During this personal interview, the department chairman should cover in some depth all the same points that were covered in his initial letter of interest and accompanying material as well as any others that come to mind. A matter of fact presentation of community, social, and political attitudes and pressures should be provided the candidate to assist him in his decision to accept or reject employment if offered. General information concerning the school system, housing, and cost of living should also be furnished the prospective appointee. At

the conclusion of the interview, the department chairman should satisfy himself that he has answered any questions in the mind of the candidate and that the candidate is still interested. Promptly after the interview, the department chairman should duly note in writing his observations and impressions of the candidate during this interview.

At the conclusion of the candidate's on-campus visit, the chairman should advise the candidate of the time within which decisions should be reached.

Step V--EMPLOYMENT

If, after consultation with colleagues within the department, the department chairman determines that a candidate is the person for the available position, he should transmit his recommendations to the dean or other appropriate administrative official together with the candidate's file for review. If the dean or other appropriate administrator concurs with the department chairman's recommendation, he should then make his recommendation to the president.

If the president concurs in the dean's recommendation, he should notify the candidate that he is prepared to recommend his employment to the Board of Trustees. Upon receipt of the candidate's expression of continuing interest in employment, the president should present his recommendations to the Board of Trustees for its consideration.

Assuming favorable action of the Board on the president's recommendation, the president or his designee should cause to be tendered to the candidate a contract for execution. Great care should be taken that this contract is as precise as possible in its terms. The letter of transmittal that accompanies the contract should clearly state any special conditions of employment that may exist. If, for example, the new faculty member is expected to divide his time between teaching and academic counselling or between teaching and some other endeavor, this letter of transmittal should so state.

As in other facets of the selection process, copies of the letter of transmittal and either the original or a copy of the contract should appear in the faculty member's file.

It should be noted well that absent a delegation of authority, an offer for employment can only come from the Board of Trustees and that the contracting process should be given highest priority in terms of expedition and careful handling.

THE TERMINATION STAGE

Somewhere down the employment road a decision has to be made whether pre-employment promise has been fulfilled or whether performance has fallen short of required levels. Salary increases, promotions, and reappointment are at stake and a considered judgment must be made.

The courts have said, and rightly so, that refusal to reappoint non-tenured faculty members cannot be grounded on constitutionally impermissible reasons. In addition, recent decisions in other jurisdictions speak in terms of non-tenured teachers having gained a sort of implied tenure or a "property right" in continued employment. This latter relationship comes about by "understanding(s) fostered by the college administration." While it is difficult to comprehend how such a job status could arise in some states, an abundance of caution persuades us that it is appropriate to establish at the campus level due process procedures which will insure that the rights of non-tenured faculty members in constitutionally required hearings are scrupulously protected.

Decision Concerning Future Employment Status

On or about April 1 of each year, responsible college administrators should determine who among the non-tenured faculty are going to be offered reappointment for the next ensuing academic year and who are not. In each instance where reappointment is going to be proffered, notice of such intent should be given in writing to the faculty member involved in accordance with regulations and/or Board policy.

In those cases where reappointment is not going to be recommended, the appropriate college official should notify the affected faculty member of his intention not to recommend

reappointment and should confer with the faculty member informally for the purpose of reviewing the faculty member's performance.

At this informal conference, the dean or other appropriate college official should be present. The faculty member should be orally apprised of the reasons for the decision not to recommend his reappointment and should be given written notice that he will not be recommended for reappointment. If the faculty member requests, the college should furnish him, in confidence, written reasons for the decision not to recommend his reappointment for the next ensuing year. It should be stressed that the matter of notification of the affected member that he will not be recommended for reappointment should be treated by the institution in a manner calculated not to injure the name, reputation or professional standing of the faculty member.

The written notice of the decision not to recommend reappointment (as opposed to the statement of reasons for non reappointment) should advise the faculty member of his options in the matter and request that he exercise one of them within seven calendar days of receipt of said written notice.

At this point, the faculty member has three courses of action open to him. He may submit his resignation effective at the end of the applicable contract period. He may elect to contest the decision on the ground that the decision not to recommend his reappointment was grounded on constitutionally

impermissible reasons. Or, he can do nothing, in which case official notice of his non reappointment will follow forthwith.

If the faculty member asserts that the decision not to recommend his reappointment violates his constitutional rights, he should state the substance of his claim in writing to the department chairman/division head or other appropriate college official within the seven-day period provided for above. It is noted here that a mere allegation of violation of constitutional rights without asserting the substance of these allegations is not sufficient to justify the conduct of a hearing on these allegations.

Upon receipt of the faculty member's written statement, the designated college official should forthwith set in motion appropriate hearing procedures to insure due process of law.

The Hearing Body

The hearing body might be composed of three tenured or senior members of the teaching faculty not connected with the same department as the affected faculty member nor related to him by blood or marriage. They should be selected in a manner that insures their impartiality. Theirs is a fact-finding role.

Presiding Officer of the Hearing Body

A member of the teaching faculty with prior legal training or experience in the conduct of hearings of the nature contemplated herein should be designated to chair the hearing. If no such person is available, college officials might wish to turn

to a practicing attorney in the area to perform such a function. The hearing officer, as he might be designated, should give timely notice as to the time, place and nature of the hearing and the legal authority and jurisdiction under which the hearing is to be held. His role is that of a procedural and technical adviser and he should take no part in the deliberations of the hearing body. He may, however, assist in preparing the written draft of the findings of fact if requested to do so by the fact-finding members of the panel.

Time of Hearing

The hearing should be held as soon as possible after appointment of the hearing body and presiding officer.

Hearing

The threshold issue to be determined at the hearing is whether or not there exist facts which indicate that the non reappointment of the contending faculty member is grounded on some unconstitutional basis. It should be noted that the faculty member bears the burden of proving his allegations. Once he establishes a prima facie case, the college must then come forward with facts in support of the real reason or reasons for the decision not to offer reappointment.

Hearing Procedure

The Fifth Circuit Court of Appeals has determined that the following requisites must be present in order to assure

due process in hearings of the type comtemplated herein. These are:

1. Timely notice of hearing.
2. Opportunity for the faculty member to produce evidence and witnesses in his own behalf.
3. The opportunity afforded to the faculty member to cross examine witnesses presented by the institution in support of its decision.
4. The development and preservation of a record of the hearing. (This can be done either by mechanical or stenographic device.)
5. Notice to the faculty member of the decision of the hearing panel.

Evidence

The hearing body should give probative effect to evidence which would be admissible in civil proceedings in the courts of the state, but in receiving evidence due regard should be given to the complete development of the facts in issue.

Findings of Fact

The hearing body should make written findings of fact and notify both the faculty member and the designated college official of such findings.

Final Determination

Upon receipt of written findings of fact from the hearing body, the appropriate college official should deliver as

expeditiously as possible the faculty member's personnel file together with the written findings of fact to the president for final determination.

Absent a Board policy to the contrary, the president's decision whether to recommend the appointment or not to recommend the appointment should be final.

CONCLUSION

This paper has been written in the spirit of preventive law. It has not treated the ongoing responsibility of the institution to provide a positive climate for the professional to serve and in which to grow. The department/division chairman must contribute to the development of each faculty member to be sure everything possible is done to assist that individual to perform successfully. Clearly stated and publicly known duties together with ongoing professional development activities are only two areas among many in which the first-line manager must give direction.

PART IV

AN IN-SERVICE TRAINING PROGRAM FOR DIVISION/DEPARTMENT CHAIRMEN

Robert L. Breuder
Assistant Professor
Department of Higher Education
The Florida State University

AN IN-SERVICE TRAINING PROGRAM
FOR DIVISION/DEPARTMENT CHAIRMEN

Division/department chairmen are increasingly being called upon to render decisions and professional judgments regarding the welfare of their faculty or other aspects of the college community. During the decade of the 1970's, division/department chairmen can expect to be asked to assume added responsibility in the institutional decision-making process by virtue of their membership on the college management team. For those individuals ill-prepared to accept this added responsibility and challenge and unable to measure up to the continuous cry of accountability, the path to the courtroom lies clear.

To assist division/department chairmen in meeting the new and increased demands placed upon them and the challenges which lie ahead, the need for developing, implementing, and conducting in-service training programs for division/department chairmen expected to assume first-line managerial duties in our community/junior colleges becomes apparent. The necessary expenditure of money, time, and effort to promulgate such in-service training programs is justifiable and desirable if we take a moment to consider the consequences of our failure to institute such

programs. For those community/junior colleges seriously contemplating the design of an effective and efficient in-service training program, a brief description of such a program currently underway in Florida might prove helpful.

Florida currently enrolls approximately 177,000 students in its twenty-eight public community/junior colleges. Helping to educate and fulfill the needs of these people are 368 division/department chairmen. For quite some time now, the Florida Division of Community Colleges and the Office of the General Counsel for the State Board of Education have heard the pleas of these division/department chairmen for information they believe is essential if they are to serve as viable members of the management team of their institutions. Division/department chairmen have become exceedingly sensitive to the harsh realization that, in many instances, they are making decisions and professional judgments based upon informal and inconsistent procedures which would make them vulnerable to judicial review.

As a result of these requests for information, the Division of Community Colleges sought and received funds from the State Department of Education for the expressed purpose of developing, implementing, and conducting an in-service training program whose initial objective would be to develop within division/

department chairmen a legal sensitivity in the area of faculty selection, development, evaluation, and retention. In order to carry out all phases of this first state-wide, in-service training program, the Division entered into a contractual agreement with the Department of Higher Education of The Florida State University.

During the Fall of 1972 the Department of Higher Education conducted eight regional workshops focusing on the above theme throughout Florida. Two workshops were held at Miami-Dade Junior College, and one each at Florida Junior College at Jacksonville, North Florida Junior College, Polk Community College, Seminole Junior College, Okaloosa-Walton Junior College, and Indian River Community College. More than 300 division/department chairmen representing 27 public community/junior colleges attended one of these workshops. Whereas the length of each workshop varied from one day to a day and a half, the program generally remained the same.

IN-SERVICE TRAINING PROGRAM

In establishing the in-service training program in Florida the first task was to identify clearly the primary messages to be delivered to division/department chairmen and then to determine the most feasible, effective, and efficient means of attaining those desired goals. In order for the in-service program to

serve as an effective educational device, it needed to contain the proper mixture of formal and informal instructional techniques.

Recognizing that many division/department chairmen were unaware of the magnitude and scope of their role change and safely concluding that their knowledge of the legal implications and framework of faculty selection, development, evaluation, and retention was anything but complete, the use of formal presentations to disseminate the abundance of information in these areas was deemed an appropriate instructional technique. However, because of the limitations and liabilities frequently associated with formal presentations, several informal instructional techniques were employed and subsequently found to be extremely effective in creating added awareness, understanding, and sensitivity to the issues at hand.

One of the two informal techniques used during the in-service training program was a mock trial. The mock trial turned out to be a particularly appropriate informal instructional technique for making division/department chairmen sensitive to the fact that actions they take without a thorough knowledge and understanding of certain elements of the law could culminate in a courtroom experience that might not only produce immeasurable anguish but could also conceivably impair their standing in the academic community.

The mock trial commanded complete audience attention because of the authenticity of the problem being depicted and the ability of division/department chairmen to identify personally with the characters being portrayed. Perusal of the audience during the mock trial revealed many looks of concern, confusion, insecurity, and dismay. One could sense that concealed behind those facial expressions lay a myriad of questions waiting for answers.

Even though division/department chairmen were continually encouraged to air their concerns and frustrations, the opportunity to do so was enhanced by the division of the audience into four smaller groups. These small groups were under the direction of rotating resource personnel and clearly allowed for a freer exchange of ideas and in-depth elaboration and analysis of prevailing difficulties. In addition to alleviating or at least putting into proper perspective many of the expressed dilemmas experienced by division/department chairmen, these small group sessions resulted in an identification of those problem areas where division/department chairmen felt they needed more information.

IDENTIFIED PROBLEMS

During the Fall term, 1972, 12 of Florida's 28 public junior colleges failed to meet their projected student enrollment for

the 1972-73 academic year. As a consequence of this unfortunate development, a significant number of these institutions was compelled to find ways to reduce the number of their professional staff. Division/department chairmen reported they were frequently approached by their dean, president, or other administrative officer to recommend from among their instructional faculty those individuals who may need to be released. For division/department chairmen this was often a most unpleasant experience--perhaps even traumatic. This situation was more often than not complicated by the fact that the institution had not defined the evaluative criteria enumerated by the Florida State Board of Education to be used in determining whom among the faculty on continuing contract not to offer reappointment. Division/department chairmen expressed the need for assistance in helping to define such terms or phrases as efficiency, compatibility, character, capacity to meet the educational needs of the community, and educational qualifications.

Closely akin to this problem is the need for defining such State Board of Education Regulations terms or phrases as immorality, incompetency, willful neglect of duty, drunkenness, conviction of any crime involving moral turpitude, misconduct in office, and gross insubordination in view of increased requests to recommend the dismissal or suspension of certificated personnel within one's division/department.

Another area found to be of much concern to division/department chairmen was the urgent need to ascertain what the true role of the division/department chairman is in the college community. When asked whether they considered themselves administrators, faculty members, or both, faces reflecting complete bewilderment were most common. Before division/department chairmen can be expected to assume the increased responsibilities endemic to their job, they must first have a sense of identity. They should not be held accountable for actions they take while functioning in a position that has yet to be clearly defined. This potential identity crisis among division/department chairmen quite possibly serves as a breeding ground for a whole series of existing ills not the least of which is their need to understand what their roles should be in the area of professional negotiations. Taking a middle of the road approach or choosing a side will almost invariably precipitate the hostilities of either the administration, faculty, or both. The time is certainly at hand for a clarification of the role of division/department chairmen.

Shocking though it may seem, division/department chairmen who are considered by many academicians as members of the management team are frequently without the benefit of any training in the area of management theory. Many division/department chairmen report that they ascended into their current positions as a

result of their outstanding performance as teachers, not necessarily as leaders. Division/department chairmen recognize that an in-depth understanding of management theory is essential if they are to assume leadership roles in the academic community.

Although there is some feeling among division/department chairmen that their plight is gradually being recognized by other members of the college management team, they believe there is a need to share with these people those factors which impede the performance of their jobs. Taking the message presented during the current in-service training program to top-level administrators is perceived to be a beginning point which could lead to the further understanding and improvement of the role of the division/department chairman.

These are but a few of the problem areas identified by division/department chairmen as needing attention in the months ahead. Within four months of the first in-service training program for division/department chairmen in Florida work has begun in several of these areas.

FORMATION OF TASK FORCE

As a direct consequence of this first in-service training program a task force composed of eleven members drawn from public community/junior colleges throughout Florida has been established and charged with reviewing those State Board of Education

Regulations relative to the retention of faculty on continuing appointment for the purposes of determining if the evaluative criteria enumerated therein serve the needs of the community/junior colleges and helping to define those criteria. Observations, suggestions, and recommendations culminating from the deliberations of the task force will be shared with the appropriate state level agencies and individual institutions.

PREPARATION OF VIDEOTAPE

In response to requests of division/department chairmen for sharing with other college officials information on the legal implications of faculty selection, development, evaluation, and retention a videotape entitled Legal Implications of Personnel Management was prepared by the Department of Higher Education. The essence of the message delivered during the in-service training program was incorporated in the videotape. To accompany the videotape a self-inventory was designed to assist the viewer in determining the extent to which his decisions and professional judgments in this area are based upon a framework which could withstand judicial examination. Figure I on page 54 shows the questions to which the viewer of the videotape is expected to respond prior to and subsequent to viewing the videotape.

Because this videotape addresses itself to a problem of national interest, it will be shown at the American Association

Please respond either Yes or No to each of the questions presented below prior to viewing the videotape. After the viewing, please review your responses and check those which you would then answer differently.

_____ 1. Are you familiar with the legal foundations underlying professional judgements you may be called on to make in the selection, development, evaluation, and retention of faculty?

_____ 2. As a division/department chairman, do you know what levels of legal authority come to bear in the day-to-day performance of your job?

_____ 3. Can you identify the various national, state, and local sources of legal authority which often influence the more formalized levels of legal authority?

_____ 4. Do you know what procedural requirements you must follow when recommending the non-retention of a faculty member?

_____ 5. Do you know what procedural requirements you must follow in the selection of new faculty members?

_____ 6. Do you know what procedural requirements you must follow in the evaluation of faculty?

_____ 7. Did you know that courts of law are extremely reluctant to substitute a legal judgment for your professional judgment?

_____ 8. Do you know when courts will intrude to protect the rights of a faculty member?

_____ 9. Have you kept a file on each of your faculty members?

_____ 10. Will your faculty records be able to withstand judicial examination?

_____ 11. Is your record keeping equitably and consistently applied to all professional personnel in your division/department?

_____ 12. Have you developed a checklist of items which could be placed inside the folder of each faculty member thus enabling you to make certain that the file is complete and comprehensive?

_____ 13. Are you aware of the kinds of information that should be available in a faculty member's folder?

- _____ Do you know what kind of personal data you should collect on new faculty?
- _____ Do you know what kind of professional data you should collect on new faculty?
- _____ Do you know what kind of performance data you should collect on new faculty?
- _____ Do you know what kind of evaluative data you should collect on new faculty?
- _____ Do you know what kind of contractual data you should collect on new faculty?

_____ 14. Do your institutional policies complement and refine statutory and regulatory policies?

_____ 15. Do you know what the state level statutory and regulatory provisions are as they pertain to faculty members?

_____ 16. Do you have at your disposal written institutional policies, procedures, and criteria upon which you can derive decisions that are legally defensible?

_____ 17. Do you know where a copy of the State Board of Education (SBOE) regulations is kept in your institution?

_____ 18. Do you know what information is contained in the SBOE regulations regarding contractual agreements with faculty members?

_____ 19. Do you know what information is contained in the SBOE regulations regarding special working conditions and responsibilities with faculty members?

_____ 20. Do you know what information is contained in the SBOE regulations regarding benefits and entitlements of faculty members?

_____ 21. Can you list the criteria specified by the SBOE for determining retention between or among personnel on continuing contract?

_____ 22. Can you describe the basis for dismissal or suspension of certified personnel as stated by the SBOE?

_____ 23. Can you define the term due process and describe how it needs to be applied when not recommending a faculty member for reappointment?

FIGURE 1

A Self-Inventory on the Selection, Development, Evaluation, and Retention of Faculty

of Community/Junior Colleges Convention in Anaheim, California, in February and will be available for use by state level agencies and public junior and senior institutions of higher learning throughout the country.

CONCLUSION

Community/junior college officials concerned about the potential harm their institutions could suffer as a consequence of decisions made by division/department chairmen who are either ill-advised, uninformed, or under-prepared need to recognize the importance of providing viable in-service training opportunities designed to serve the varied needs of these people.

The composition and format of the in-service training program to be implemented should be contingent upon an analysis of the clientele to be served. A careful blending of formal and informal instructional techniques allowing for self-examination and group interaction in addition to the dissemination of information is essential if such a program is to fulfill its intended objective.

The division/department chairman is a valuable resource and needs to be considered as such. Few educators would argue that the quality of our educational programs in community/junior colleges is to a great degree dependent upon the caliber of the individual assuming the role of division/department chairman.

NOTES ON THE PRESENTERS

Lou Bender received his Ed.D. degree from Lehigh University in 1965. Lou formerly served as State Director for Community Colleges in Pennsylvania during the first five years of their establishment from 1964 to 1969. At the present time, he is Professor of Higher Education at The Florida State University. Lou has been a consultant to many state systems as well as numerous institutions. During the past year he directed or participated in workshops for division/department chairmen in Connecticut and Illinois as well as here in Florida. He is co-author of a recent book entitled Governance for the Two-Year College published by Prentice-Hall. Lou is co-director with Dr. James L. Wattenbarger of the Center for State and Regional Leadership operated jointly by The Florida State University and The University of Florida.

Bob Breuder received his Ph.D. degree from The Florida State University in 1972. Bob recently accepted a position as Assistant Professor of Higher Education at The Florida State University and is also serving as Assistant Director of the Florida State University State and Regional Higher Education Center. Prior to coming to Florida in 1970, Bob served as Instructor of Botany at Paul Smith's College, Paul Smiths, New York, and Counselor and Director of College Housing at Sullivan County Community College, South Fallsburg, New York. He is the author of a monograph entitled: "A Statewide Study: Identified Problems of International Students Enrolled in Public Junior Colleges in Florida."

Harold Kastner received his Ed.D. degree from The University of Florida in 1962. Prior to assuming his current position as Assistant Director of Community Colleges, Florida Department of Education, Harold served as Head of Social Science Division at St. Johns River Junior College from 1958-1960 and as Dean of the College and Vice President at Polk Junior College from 1965-1969. In addition to serving as guest lecturer and consultant to universities, colleges, organizations, and associations at the local, state, regional, and national level, Harold is the author of many articles related to junior college education. He has served as research director and co-director of federal and foundation funded projects in the areas of economic education, community services, and differentiated staffing. Among the many honors accorded Harold are his listings in Who's Who in the South and Southwest, Who's Who in American Education, and Who's Who in American College and University Administrators.

Charles Miner presently serves as General Counsel to the State Board of Education of Florida. He is the holder of a B.S. degree from The Florida State University, awarded in 1955. After two years teaching high school English and government, he studied law at Stetson College of Law, George Washington University College of Law in Washington, D. C., and The University of Florida College of Law where he received his J.D. degree in 1962. While in Washington, he served as administrative assistant to Congressman Paul Rogers of Florida. He engaged in the private practice of law for seven years before joining the staff of the General Counsel to the State Board of Education in 1970.